

AMENDED IN ASSEMBLY AUGUST 29, 2006

AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY JULY 13, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 56

Introduced by Senator Dunn

(Principal coauthor: Senator Ducheny)

(Principal coauthor: Assembly Member Jones)

(Coauthors: Assembly Members Benoit, Bermudez, Bogh, and
Emmerson)

January 12, 2005

An act to add Section 6009.5 to the Business and Professions Code, *and to amend Section 12011.5 of*, and to add Sections 69614 and 77001.5 to, the Government Code, relating to trial court judges and officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 56, as amended, Dunn. Trial court judges and officers.

(1) Existing law requires a member of the State Bar to maintain specified information on the official membership records of the State Bar.

This bill would require the State Bar to adopt procedures to facilitate reporting of mandatory and voluntary information by

providing members with a centralized mechanism for reporting information online at the State Bar Internet Web site.

(2) *Existing law requires the Governor to submit to a designated agency of the State Bar of California the names of all potential appointees or nominees for a vacant judicial office for evaluation of their judicial qualifications. Existing law requires the State Bar to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the judicial duties of the office and to report its recommendation in confidence to the Governor within 90 days.*

This bill would require, on or before March 1, 2007, and annually on or before each March 1 thereafter, all of the following: (a) the Governor to disclose aggregate statewide demographic data provided by all judicial applicants relative to ethnicity and gender; (b) the designated agency of the State Bar responsible for evaluation of judicial candidates to collect and release statewide demographic data provided by judicial applicants reviewed and the statewide summary of the recommendations of the designated agency by ethnicity and gender; and (c) the Administrative Office of the Courts to collect and release the demographic data provided by justices and judges relative to ethnicity and gender by specific jurisdiction. The bill would make other technical, nonsubstantive changes to these provisions.

(3) Existing law specifies the number of judges of the superior court for each county.

This bill would authorize 50 additional judges to be allocated, upon appropriation by the Legislature in the 2006–07 fiscal year, to the various county superior courts, pursuant to uniform criteria approved by the Judicial Council. The bill would require the Judicial Council to report ~~biannually~~ *biennially* to the Legislature and the Governor on the factually determined need for new judgeships in each superior court, as specified.

The bill would require the Judicial Council, on or before November 1, 2007, to adopt, and report to the Legislature annually thereafter upon, judicial administration standards and measures that promote the fair and efficient administration of justice.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6009.5 is added to the Business and
2 Professions Code, to read:

3 6009.5. The State Bar shall adopt procedures to facilitate
4 reporting of mandatory and voluntary information by providing
5 members with a centralized mechanism for reporting information
6 online at the State Bar Internet-web Web site, including, but not
7 limited to, data required to be provided pursuant to the State Bar
8 Act, or by other statutes, rules, and case law, and demographic
9 information. Any demographic data collected shall be used only
10 for general purposes and shall not be identified to any individual
11 member or his or her State Bar record.

12 SEC. 2. Section 12011.5 of the Government Code is amended
13 to read:

14 12011.5. (a) In the event of a vacancy in a judicial office to
15 be filled by appointment of the Governor, or in the event that a
16 declaration of candidacy is not filed by a judge and the Governor
17 is required under subdivision (d) of Section 16 of Article VI of
18 the Constitution to nominate a candidate, the Governor shall first
19 submit to a designated agency of the State Bar of California the
20 names of all potential appointees or nominees for the judicial
21 office for evaluation of their judicial qualifications.

22 (b) The membership of the designated agency of the State Bar
23 responsible for evaluation of judicial candidates shall consist of
24 attorney members and public members with the ratio of public
25 members to attorney members determined, to the extent practical,
26 by the ratio established in Sections ~~6013~~, 6013.4, and 6013.5;
27 ~~inclusive~~, of the Business and Professions Code. It is the intent of
28 this subdivision that the designated agency of the State Bar
29 responsible for evaluation of judicial candidates shall be broadly
30 representative of the ethnic, sexual, and racial diversity of the
31 population of California and composed in accordance with
32 Sections 11140 and 11141 of the Government Code. The further
33 intent of this subdivision is to establish a selection process for
34 membership on the designated agency of the State Bar
35 responsible for evaluation of judicial candidates under which no
36 member of that agency shall provide inappropriate, multiple
37 representation for purposes of this subdivision.

1 (c) Upon receipt from the Governor of the names of candidates
2 for judicial office and their completed personal data
3 questionnaires, the State Bar shall employ appropriate
4 confidential procedures to evaluate and determine the
5 qualifications of each candidate with regard to his or her ability
6 to discharge the judicial duties of the office to which the
7 appointment or nomination shall be made. Within 90 days of
8 submission by the Governor of the name of a potential appointee
9 for judicial office, the State Bar shall report in confidence to the
10 Governor its recommendation whether the candidate is
11 exceptionally well-qualified, well-qualified, qualified, or not
12 qualified and the reasons therefor, and may report, in confidence,
13 ~~such~~ other information as the State Bar deems pertinent to the
14 qualifications of the candidate.

15 (d) In determining the qualifications of a candidate for judicial
16 office, the State Bar shall consider, among other appropriate
17 factors, his or her industry, judicial temperament, honesty,
18 objectivity, community respect, integrity, health, ability, and
19 legal experience.

20 (e) The State Bar shall establish and promulgate rules and
21 procedures regarding the investigation of the qualifications of
22 candidates for judicial office by the designated agency. These
23 rules and procedures shall establish appropriate, confidential
24 methods for disclosing to the candidate the subject matter of
25 substantial and credible adverse allegations received regarding
26 the candidate's health, physical or mental condition, or moral
27 turpitude which, unless rebutted, would be determinative of the
28 candidate's unsuitability for judicial office. No provision of this
29 section shall be construed as requiring that any rule or procedure
30 be adopted ~~which~~ *that* permits the disclosure to the candidate of
31 information from which the candidate may infer the source, and
32 no information shall either be disclosed to the candidate nor be
33 obtainable by any process ~~which~~ *that* would jeopardize the
34 confidentiality of communications from persons whose opinion
35 has been sought on the candidate's qualifications.

36 (f) All communications, written, verbal, or otherwise, of and
37 to the Governor, the Governor's authorized agents or employees,
38 including, but not limited to, the Governor's Legal Affairs
39 Secretary and Appointments Secretary, or of and to the State Bar
40 in furtherance of the purposes of this section are absolutely

1 privileged from disclosure and confidential, and any
2 communication made in the discretion of the Governor or the
3 State Bar with a candidate or person providing information in
4 furtherance of the purposes of this section shall not constitute a
5 waiver of the privilege or a breach of confidentiality.

6 (g) ~~When~~ *If* the Governor has appointed a person to a trial
7 court who has been found not qualified by the designated agency,
8 the State Bar may make public this fact after due notice to the
9 appointee of its intention to do so, but ~~no such that~~ notice or
10 disclosure shall *not* constitute a waiver of privilege or breach of
11 confidentiality with respect to communications of or to the State
12 Bar concerning the qualifications of the appointee.

13 (h) ~~When~~ *If* the Governor has nominated or appointed a person
14 to the Supreme Court or court of appeal in accordance with
15 subdivision (d) of Section 16 of Article VI of the ~~State~~ *California*
16 Constitution, the Commission on Judicial Appointments may
17 invite, or the State Bar's governing board or its designated
18 agency may submit to the commission its recommendation, and
19 the reasons therefor, but ~~no such that~~ disclosure shall *not*
20 constitute a waiver of privilege or breach of confidentiality with
21 respect to communications of or to the State Bar concerning the
22 qualifications of the nominee or appointee.

23 (i) No person or entity shall be liable for any injury caused by
24 any act or failure to act, be it negligent, intentional, discretionary,
25 or otherwise, in the furtherance of the purposes of this section,
26 including, but not limited to, providing or receiving any
27 information, making any recommendations, and giving any
28 reasons therefor. As used in this section, the term "State Bar"
29 means its governing board and members thereof, the designated
30 agency of the State Bar and members thereof, and employees and
31 agents of the State Bar.

32 (j) At any time prior to the receipt of the report from the State
33 Bar specified in subdivision (c) the Governor may withdraw the
34 name of any person submitted to the State Bar for evaluation
35 pursuant to this section.

36 (k) No candidate for judicial office may be appointed until the
37 State Bar has reported to the Governor pursuant to this section, or
38 until 90 days have elapsed after submission of the candidate's
39 name to the State Bar, whichever occurs earlier. The requirement
40 of this subdivision shall not apply to any vacancy in judicial

1 office occurring within the 90 days preceding the expiration of
2 the Governor's term of office, provided, however, that with
3 respect to those vacancies and with respect to nominations
4 pursuant to subdivision (d) of Section 16 of Article VI of the
5 *California* Constitution, the Governor shall be required to submit
6 any candidate's name to the State Bar in order to provide it an
7 opportunity, if time permits, to make an evaluation.

8 (l) Nothing in this section shall be construed as imposing an
9 additional requirement for an appointment or nomination to
10 judicial office, nor shall anything in this section be construed as
11 adding any additional qualifications for the office of a judge.

12 (m) The Board of Governors of the State Bar shall not conduct
13 or participate in, or authorize any committee, agency, employee,
14 or commission of the State Bar to conduct or participate in, any
15 evaluation, review, or report on the qualifications, integrity,
16 diligence, or judicial ability of any specific justice of a court
17 provided for in Section 2 or 3 of Article VI of the California
18 Constitution without prior review and statutory authorization by
19 the Legislature, except an evaluation, review, or report on
20 potential judicial appointees or nominees as authorized by this
21 section.

22 The provisions of this subdivision shall not be construed to
23 prohibit a member of the State Bar from conducting or
24 participating in ~~such~~ an evaluation, review, or report in his or her
25 individual capacity.

26 (n) *(1) Notwithstanding any other provision of this section, on*
27 *or before March 1, 2007, and on or before March 1 of each year*
28 *thereafter, all of the following shall occur:*

29 (A) *The Governor shall disclose aggregate statewide*
30 *demographic data provided by all judicial applicants relative to*
31 *ethnicity and gender.*

32 (B) *The designated agency of the State Bar responsible for*
33 *evaluation of judicial candidates shall collect and release both of*
34 *the following on a aggregate statewide basis:*

35 (i) *Statewide demographic data provided by judicial*
36 *applicants reviewed relative to ethnicity and gender.*

37 (ii) *The statewide summary of the recommendations of the*
38 *designated agency of the State Bar by ethnicity and gender.*

39 (C) *The Administrative Office of the Courts shall collect and*
40 *release the demographic data provided by justices and judges*

1 *described in Article VI of the California Constitution relative to*
2 *ethnicity and gender, by specific jurisdiction.*

3 (2) *Any demographic data disclosed or released pursuant to*
4 *this subdivision shall disclose only aggregated statistical data*
5 *and shall not identify any individual applicant, justice, or judge.*

6 (o) If any provision of this section other than a provision
7 relating to or providing for confidentiality or privilege from
8 disclosure of any communication or matter, or the application of
9 ~~any such~~ *the* provision to any person or circumstances, ~~shall be~~ *is*
10 held invalid, the remainder of this section to the extent it can be
11 given effect, or the application of ~~such the~~ provision to persons
12 or circumstances other than those as to which it is held invalid,
13 shall not be affected thereby, and to this extent the provisions of
14 this section are severable. If any other act of the Legislature
15 conflicts with the provisions of this section, this section shall
16 prevail.

17 ~~SEC. 2.~~

18 SEC. 3. Section 69614 is added to the Government Code, to
19 read:

20 69614. (a) Upon appropriation by the Legislature in the
21 2006–07 fiscal year, there shall be 50 additional judges allocated
22 to the various county superior courts pursuant to the uniform
23 criteria described in subdivision (b) for determining the need for
24 additional superior court judges.

25 (b) The judges shall be allocated, in accordance with the
26 uniform standards for factually determining additional judicial
27 need in each county, as approved by the Judicial Council in
28 August, 2001, and as modified and approved by the Judicial
29 Council in August, 2004, pursuant to the Update of Judicial
30 Needs Study, based on the following criteria:

31 (1) Court filings data averaged over a period of three years.

32 (2) Workload standards that represent the average amount of
33 time of bench and nonbench work required to resolve each case
34 type.

35 (3) A ranking methodology that provides consideration for
36 courts that have the greatest need relative to their current
37 complement of judicial officers.

38 (c) The Judicial Council shall report to the Legislature and the
39 Governor on or before November 1 of every even-numbered year
40 on the factually determined need for new judgeships in each

1 superior court using the uniform criteria for allocation of
2 judgeships described in subdivision (b), as updated and applied
3 to the average of the prior three calendar years' filings.

4 ~~SEC. 3.~~

5 *SEC. 4.* Section 77001.5 is added to the Government Code, to
6 read:

7 77001.5. On or before November 1, 2007, the Judicial
8 Council shall adopt, and shall report to the Legislature annually
9 thereafter upon, judicial administration standards and measures
10 that promote the fair and efficient administration of justice,
11 including, but not limited to, the following subjects:

12 (1) Providing equal access to courts and respectful treatment
13 for all court participants.

14 (2) Case processing, including the efficient use of judicial
15 resources.

16 (3) General court administration.